

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No 28731 of 2020

Arising Out of PS. Case No.-32 Year-2020 Thana- BHAGWANPUR District- Vaishali

SAKINDRA PASWAN S/o Ritu Pasdwan @ Charitu Paswan @ Chaitu Paswan R/o Village- Bijalipur @ Saidpur Bijli, P.S.- Bhagwanpur, District- Vaishali.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

For the Petitioner/s : Ms Namrata Mishra, Advocate
For the Opposite Party/s : Mr Nirmal Kr Sinha, APP

CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD
ORAL ORDER

4 11-01-2021 Heard learned counsel for the petitioner and the learned
APP for the State.

Petitioner apprehends his arrest in connection with Bhagwanpur Police Station (for brevity, *PS*) Case No 32 of 2020 instituted for the offence punishable under Sections 30 (a), 37 (c) of Bihar Prohibition and Excise Act, 2018 (for brevity, *the Act*).

9 liters of country made liquor has allegedly been recovered from the possession of co-accused Prabhu Singh, Dheeraj Kumar and Sabir Alam. The allegation is that the police have apprehended them from the petitioner's hut where they had, on some secret information, gone to raid the premises.

Petitioner's counsel submits that even as per the allegations, recovery of the illicit liquor is from other co-accused persons. There is no allegation even that the petitioner



was present at the time of seizure of the illicit liquor or that he was fleeing away on seeing the police. It is further submitted that the petitioner is a poor person and, in order to earn his livelihood, was staying away from the hut for a long period. Taking advantage of the petitioner's absence, it is possible that the other co-accused may have been apprehended. Circumstances do not, however, give rise to any case against the petitioner for the offence punishable under the Act.

Learned APP for the State has opposed the prayer for anticipatory bail, referring to the provisions of Section 76 (2) of the Bihar Prohibition and Excise Act and submitted that pre-arrest bail would not be maintainable.

This Court is conscious of decision of the Full Bench in the case of *Ram Vinay Yadav -Versus- State of Bihar* reported in *2019 (2) PLJR 1089*. Having regard to the law laid down in the said judgment and the submissions advanced on behalf of the petitioner, this Court, for the limited purpose of grant of anticipatory bail, is inclined to accept the submissions of learned counsel for the petitioner.

In the facts and circumstances of the case, prayer of petitioner for grant of anticipatory bail is allowed. In the event of surrender/arrest of the petitioner, named above, before the



Court below, within four (04) weeks from today, he shall be released on bail on his furnishing bonds of Rs 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of Additional Special Judge II -cum- Excise Court, Vaishali, Hajipur in Bhagwanpur PS Case No 32 of 2020 subject to the conditions as laid down under Section 438 (2) of Criminal Procedure Code and also the following conditions:-

(i) That one of the bailors will be a close relative of the petitioner who will give an affidavit giving genealogy as to how he is related with the petitioner. The bailor will also undertake to inform the Court if there is any change in the address of the petitioner.

(ii) That the petitioner will be well represented on each date and if he fails to do so on two consecutive dates, his bail bond will be liable to be cancelled.

Learned counsel for the petitioner is expected to honour his undertaking given in the instant proceedings today for depositing requisite Court fee and removing the defect (s), as pointed out, when called upon to do so.

(Madhuresh Prasad, J)

M.E.H./-

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